

REMARKS

Requirement for Restriction/Election

In the Requirement for Restriction/Election dated July 8, 2009, pending claims 1-6, 15-19, 28-30, 37, 38, 40, 42-44, 47, 48, 51-55 and 57 were restricted under 35 U.S.C. §121 into the following nine groups:

- I. Claims 1, 4-6, 15, 54-55, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- II. Claim 2, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- III. Claim 3, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- IV. Claims 16-19, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- V. Claims 28-30, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- VI. Claims 37, 38, 30*, 42, 43, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- VII. Claims 44 and 47-48, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- VIII. Claims 51-53, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.
- IX. Claim 57, drawn to a method for screening or selecting cells expressing a desired level of a polypeptide, classified in class 506, subclass 10.

** Please Note: It is believed that the Examiner intended to include Claim 40 in Group VI, and Applicant will proceed on that assumption. However, the Examiner is requested to confirm in writing that this assumption is correct in the next Official Communication.*

Election

Applicant hereby elects **Group III**, represented by claim 3, for examination in the instant application, without traverse. By way of the present amendment, claims 4-6, 15, and 54-55 depend directly or indirectly from elected claim 3, and newly-added claims 58-65 also depend directly or indirectly from elected claim 3. Claims 3, 4-6, 15, 54-55, and 58-65 read on Group III.

Status of and Amendments to the Claims

Claims 4-6, 15, and 54 are amended herein to depend from claim 3. Support for these amendments are found, for example, at least in the claims as originally filed in International Application No. PCT/DK2005/000070, of which the instant application is a US National Stage filing under 35 USC §371. New claims 58-65 find support, for example, in claims 7-14 (respectively) as originally filed in International Application No. PCT/DK2005/000070. Accordingly, the claim amendments and the new claims add no new matter to the application. Claims 3, 4-6, 15, 54-55, and 58-65 are pending.

Group I claim 1, Group II claim 2, Group IV claims 16-19, Group V claims 28-30, Group VI claims 37-38, 40 (as noted above), and 42-43, Group VII claims 44 and 47-48, Group VIII claims 51-53, and Group IX claim 57 are canceled herein without prejudice to filing in one or more continuation and/or divisional applications. Please note that Applicants reserve the right to file subsequent applications claiming any canceled subject matter, and that the claim amendments and cancellations should not be construed as abandonment of any claimed subject matter.

Thomas Bouqin
Application No.: 10/587,804
Filed: June 7, 2007
Response to Restriction Requirement
page 7 of 7

Attorney Docket No.: 0279us310

CONCLUSION

This amendment cancels 21 claims (8 of which are independent) and adds 8 claims (none of which are independent). It is therefore believed that no fee is due, beyond that of the Three-Month Extension of Time, for entry of this amendment. If any additional fees are due, the Commissioner is authorized to charge such fees to Deposit Account No. 50-0990. Likewise, please credit any overpayment to Deposit Account No. 50-0990.

It is believed the claims pending in this application are in condition for allowance. Early notification to that effect is earnestly solicited. If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (650) 298-5452.

November 9, 2009

Respectfully submitted,



Joanne R. Petithory, Ph.D.
Reg. No. 42,995

Maxygen, Inc.
Intellectual Property Department
515 Galveston Drive
Redwood City, California 94063
Telephone: (650) 298-5300
Facsimile: (650) 298-5446
Customer No. 30560